UNITED STATES DISTRICT COURT	EASTERN DISTRICT OF TEXAS
ELPIDIO DELGADO, JR.,	
Plaintiff,	§ § 8
versus	§ CIVIL ACTION NO. 1:05-CV-401
BUREAU OF PRISONS, et al.,	8 8 9
Defendants.	§ §

## MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Elpidio Delgado, Jr., an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brings the above-styled action against the Bureau of Prisons, Kathleen Hawk-Sawyer, and Marvin Morrison.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends Plaintiff's motion for default judgment be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes Plaintiff's objections are without merit.

Pursuant to FED. R. CIV. P. 55(e) "[n]o judgment by default shall be entered against the United States or an officer or agency thereof unless the claimant establishes his claim or right to relief by evidence satisfactory to the court." In this case, the government responded to the motion for default judgment promptly, indicating that it has not abandoned the litigation. Thus, Plaintiff's motion for default judgment should be denied.

## ORDER

Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. It is therefore

**ORDERED** that Plaintiff's motion for default judgment is **DENIED**.

SIGNED at Beaumont, Texas, this 28th day of February, 2007.

Marcia A. Crone

MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE